IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11559 of 2005

Between:

1 M/s Rajani Colour Lab, represented by its

Managing Partnter-Sri Ch. Saraiah, S/o Late Venkataiah,

R/o H.No.2-739-4-C/2-2-1, Chourastha,

Hanamkonda, Warangal.

2 Sri Chirra Saraiah, S/o Late Venkataiah,

Aged about 52 years, Occ: Business,

R/o H.No.2-739-4C/2-2-1, Chourastha,

Hanamkonda, Warangal, A.P..

3 Gobetta Devadasu, S/o Haiah,

Somadevarapally village, Dharmasagar Mandal,

Warangal, A.P.

4 Smt. Chirra Vanaja, W/o Saraiah,

Aged about 45 years, Occ: House wife,

R/o H.No.2-739-4C/2-2-1, Behind Old Bus Depot,

Hanamkonda, Warangal, A.P..

5 Smt. Chirra Anasuja, W/o Venkataiah,

Aged about 75 years, Occ: House wife,

R/o H.No.2-739-4C/2-2-1, Behind Old Bus Depot,

Hanamkonda, Warangal, A.P.

6 Gerraboni Sarangapani, S/o Rajaiah,

Aged about 40 years, Occ: Business,

H.No.6-4-144, Sangaveedi, Hanamkonda,

Warangal Town, A.P.

7 A. Ravinder Reddy, S/o Madhava Reddy,

R/o H.No.22-7-224, Pragathi Nagar Colony,

Near REC Pump, Hanamkonda, Warangal, A.P. .. PETITIONERS

AND

1. The Vysya Bank Limited, represented by its

Branch Managaer, Hanamkonda Branch,

Hanamkonda, Warangal.

2 The Recovery Officer, Debts Recovery Tribunal,

Hyderabad, 5th Floor, Triveni Complex, Abids, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order, or direction, more particularly one in nature of writ of Mandamus declaring the action of the second respondent in conducting Auction Sale dated 27-05-2005 published in Andhra Jyothi dated 26-04-2005 as illegal, arbitrary, violative of principles of natural justice and also violative of Article 300-A of the Constitution of India.

Counsel for the Petitioners: MR.V.VISWANATHAM

Counsel for the Respondent No.1: MR.ADDEPALLI SURYANARAYANA

Counsel for the Respondent No.2: None appeared

The Court at the admission stage made the following :

ORDER:(Per KCB, J)

Questioning the action of the second respondent in issuing the auction sale notification proposing to conduct the Auction Sale on 27-05-2005, which was published in Andhra Jyothi dated 26-04-2005, the petitioners filed the present writ petition.

The facts of the case are that the 1st respondent-bank filed suit for recovery of certain amounts from the petitioners herein and the writ petitioners were set ex-parte and an ex-parte order was passed. Subsequently, Recovery Certificate was also issued. The petitioners filed applications to set aside the said ex-parte orders and the same are still pending.

Learned Counsel for the petitioners contended that the petition filed for setting aside the *ex parte* order passed in O.A.No.500 of 2001, dated 25-06-2003 with an application to condone the delay is still pending and the Tribunal has not passed any orders on those petitions. Therefore, the 2nd respondent cannot issue the auction sale notification.

On the other hand, the learned Standing Counsel appearing for the respondents contended that for the very same relief, the petitioner filed writ petition

No.5664 of 2005 and the same was dismissed by this Court, and there are no grounds to interfere with the impugned proceedings.

Admittedly, there is a decree passed by the competent Tribunal against the writ petitioners herein. In pursuance of that decree, the properties are now sought to be sold in the auction scheduled to be held on 27-05-2005. However, learned counsel for the petitioners has not pointed out any irregularities or illegalities with regard to publication of the auction sale. No legal rights of the petitioner have been infringed so as to call for interference by this Court. Since the matter has already been decided by this Court in W.P.No.5664 of 2005, dated
21-03-2005, we are not inclined to entertain the present writ petition.

The Writ petition is devoid of merits and the same is accordingly dismissed at the stage of admission. There shall be no order as to costs.

V.ESWARAIAH, J

K.C.BHANU, J

LUR/PNB

Copy to:

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Hanamkonda, Warangal.

2 The Recovery Officer, Debts Recovery Tribunal,

Hyderabad, 5th Floor, Triveni Complex, Abids, Hyderabad.

3 Two CD copies.